

### **Financial Reasons for SB 55**

As explained in the fiscal note and in testimony, these are one-time revenues available to the state to fund schools. These funds were not anticipated in the budget for the 2007 biennium and the statutory offset of these added to our ending fund balance in FY 2006.

See the table on page 2 of the fiscal note. Under current law FY 2011, no additional mineral royalties remain to fund schools. The funding for this purpose "dries up" and General fund will automatically backfill these funds in FY 2011. In school funding the Guarantee account (including these mineral royalties) is the first funding of school BASE aid. Anything not covered by the Guarantee account must be made up with General fund.

SB 55 funds FY 2008 through FY 2011 with General fund, just like will be required in FY 2011. This keeps the state from spending this general fund, which is needed to fund base level schools in FY 2011, on another new proposal which would increase the base level of state expenditures.

Good financial management always includes using one-time sources of funding for one-time uses of funding

Not adopting SB 55 and using these one-time only funds to offset General fund expenditures in this biennium is like taking your Christmas bonus and using for the first payment on a new car. In January, you are going to have a hard time making that payment.

For sound financial policy, SB 55 is the right choice.

## **Constitutional Obligation to Fund School Facilities**

The state is required to equalize access and guarantee the funding of facilities.

- Attached are excerpts from the District Court opinion of the most recent school funding lawsuit. The court clearly believes that the state has an obligation to provide access to districts to adequately fund the cost of school facilities. The Court also noted that the Legislative response to the funding problems could be phased in.
- In the 2005 regular session, the Legislature provided a definition of a basic system of quality education. That definition includes facilities:

"20-9-309. Basic system of free quality public elementary and secondary schools defined -- identifying educationally relevant factors -- establishment of funding formula and budgetary structure -- legislative review. (1) Pursuant to Article X, section 1, of the Montana constitution, the legislature is required to provide a basic system of free quality public elementary and secondary schools throughout the state of Montana that will guarantee equality of educational opportunity to all. (2) As used in this section, a "basic system of free quality public elementary and secondary schools" means: ...

**(e) facilities and distance learning technologies associated with meeting the accreditation standards; ...**

- In the 2005 special session the Legislature commissioned a \$2.5 million study of school facilities conditions and needs assessment and energy audit and report findings on or before July 1, 2008.
- With SB 55 the 2009 session will have funding available for addressing immediate concerns of school facilities. The 2009 session will also need to look at a long-term funding for school facilities, but with these funds set aside, the greatest needs can be addressed immediately.



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2009 Biennium

Bill #	SB0055
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Title:	Revise use of mineral royalties purchased with coal tax loan
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Primary Sponsor:	Ryan, D.
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Status:	As Amended in Senate Committee
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- ☐ Significant Local Gov Impact
 ☒ Needs to be included in HB 2
 ☐ Technical Concerns  
☒ Included in the Executive Budget
 ☐ Significant Long-Term Impacts
 ☐ Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2008</u> <u>Difference</u>	<u>FY 2009</u> <u>Difference</u>	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$17,581,717	\$23,174,302	\$11,603,981	\$0
Guarantee Account-State Special (02)	\$0	\$0	\$0	
Facility Improvement-State Special (02)	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
Guarantee Account-State Special (02)	\$0	\$0	\$0	\$0
Facility Improvement-State Special (02)	\$17,581,717	\$23,174,302	\$11,603,981	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$17,581,717)</u>	<u>(\$23,174,302)</u>	<u>(\$11,603,981)</u>	<u>\$0</u>

**Description of fiscal impact:** One-time mineral royalties that presently would offset general fund spending for distribution to K12 schools will be diverted to a state special revenue facility improvement account to be appropriated at some time in the future for improvement of school facilities.

### FISCAL ANALYSIS

#### Assumptions:

- As a result of this legislation, one-time mineral royalty revenue resulting from SB 495 from the 2001 session will be transferred from the guarantee account to a state special revenue school facility improvement account. The following table shows the difference in the mineral royalty distribution under current law and SB 55.

SB 55 and Common School Mineral Royalty Revenue (\$ millions)				
	FY 2008	FY 2009	FY 2010	FY 2011
Mineral Royalty Revenue	\$29.323	\$27.363	\$26.526	\$26.406
<b>Current Law</b>				
Mineral Royalties to Coal Loan	\$7.492	\$0.000	\$0.000	\$0.000
Mineral Royalties to Trust Administration	\$4.249	\$4.189	\$4.100	\$4.302
* Mineral Royalties to Guarantee Account	\$17.582	\$23.174	\$11.604	\$0.000
Mineral Royalties to Facility Improvement Account	\$0.000	\$0.000	\$0.000	\$0.000
* Royalties to Permanent Fund	\$0.000	\$0.000	\$10.822	\$22.104
<b>Total</b>	<b>\$29.323</b>	<b>\$27.363</b>	<b>\$26.526</b>	<b>\$26.406</b>
<b>SB 55</b>				
Mineral Royalties to Coal Loan	\$7.492	\$0.000	\$0.000	\$0.000
Mineral Royalties to Trust Administration	\$4.249	\$4.189	\$4.100	\$4.302
Mineral Royalties to Guarantee Account	\$0.000	\$0.000	\$0.000	\$0.000
Mineral Royalties to Facility Improvement Account	\$17.582	\$23.174	\$11.604	\$0.000
Royalties to Permanent Fund	\$0.000	\$0.000	\$10.822	\$22.104
<b>Total</b>	<b>\$29.323</b>	<b>\$27.363</b>	<b>\$26.526</b>	<b>\$26.406</b>
<b>Change from Current Law to SB 55</b>				
Mineral Royalties to Coal Loan	\$0.000	\$0.000	\$0.000	\$0.000
Mineral Royalties to Trust Administration	\$0.000	\$0.000	\$0.000	\$0.000
Mineral Royalties to Guarantee Account	(\$17.582)	(\$23.174)	(\$11.604)	\$0.000
Mineral Royalties to Facility Improvement Account	\$17.582	\$23.174	\$11.604	\$0.000
Royalties to Permanent Fund	\$0.000	\$0.000	\$0.000	\$0.000

- Total School Base aid expenditures to K-12 schools do not change.
- There is no appropriation in SB 55. The state general fund appropriation for K-12 BASE aid will need to increase in amount equivalent to the decrease in the revenue available in the guarantee account.
- No change in school funding will occur until the school facility funds are appropriated.
- This account would create funding to be available for quality K12 schools' facilities needs to be determined at the end of the facilities study commissioned by the 2005 Special Legislative Session to be completed by July 2008. The total funds available in the 2011 biennium will be \$52,360,000.

	<u>FY 2008</u> <u>Difference</u>	<u>FY 2009</u> <u>Difference</u>	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
Local Assistance (01)	\$17,581,717	\$23,174,302	\$11,603,981	\$0
Local Assistance (02)	(\$17,581,717)	(\$23,174,302)	(\$11,603,981)	\$0
Transfer	\$17,581,717	\$23,174,302	\$11,603,981	\$0
<b>TOTAL Expenditures</b>	<u>\$17,581,717</u>	<u>\$23,174,302</u>	<u>\$11,603,981</u>	<u>\$0</u>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$17,581,717	\$23,174,302	\$11,603,981	\$0
Guarantee Account-State Special (02)	\$0	\$0	\$0	\$0
Facility Improvement-State Special (02)	\$0	\$0	\$0	\$0
<b>TOTAL Funding of Exp.</b>	<u>\$17,581,717</u>	<u>\$23,174,302</u>	<u>\$11,603,981</u>	<u>\$0</u>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
Guarantee Account-State Special (02)	\$0	\$0	\$0	\$0
Facility Improvement-State Special (02)	\$17,581,717	\$23,174,302	\$11,603,981	\$0
<b>TOTAL Revenues</b>	<u>\$17,581,717</u>	<u>\$23,174,302</u>	<u>\$11,603,981</u>	<u>\$0</u>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$17,581,717)	(\$23,174,302)	(\$11,603,981)	\$0
Guarantee Account-State Special (02)	\$0	\$0	\$0	\$0
Facility Improvement-State Special (02)	\$17,581,717	\$23,174,302	\$11,603,981	\$0

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Sponsor's Initials\_\_\_\_\_  
Date\_\_\_\_\_  
Budget Director's Initials\_\_\_\_\_  
Date

1           **D.     Facilities, Construction and Maintenance**

2                   132.   Adequate and safe school facilities are an essential component of a quality  
3 education system. This is specifically addressed in Montana=s accreditation standards.

4                   130.   Richard A. Whitney, Director of Billings School District Facilities  
5 Services, presented a list of building projects that his district needs to undertake over the next two  
6 years in order to meet various building and safety codes. (Pls.' Ex. 147.) Whitney indicated that  
7 approximately \$64 million is required for these projects. *Id.* at 2.

8                   133.   Due to lack of classroom space in Billings schools, the Billings School  
9 District was forced to resort to a program called ATeachers on Carts.@ These teachers have no  
10 classrooms assigned to them, but carry their instructional supplies on a cart while they roam to a  
11 vacant room. (Pls.' Ex. 149 at 7-8.)

12                  134.   The Court has already referenced the testimony of Rodney Svec, wherein  
13 he indicated that Billings High Schools needs 57 new classrooms resulting from increased federal  
14 and state requirements.

15                  135.   The Court heard evidence that both Eureka and Livingston recently had  
16 school buildings that were deemed unsafe and were either condemned or are on the verge of being  
17 condemned. While a new building was being built, students in Eureka were educated in various  
18 building around town, including a church building and part of a high school.

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1 158. As noted earlier, the A&M study does not address building costs. The  
2 Montana Legislative Fiscal Analyst Office conducted a study in 1990 and found the results  
3 indicated that many of Montana's inadequate school buildings are concentrated in the state's  
4 poorest districts and that 4 of every 10 districts will need a new facility or extensive remodeling  
5 of existing facilities by fiscal year 1996.@ (Pls.' Ex. 160 at 23.)

6 159. State funding for capital outlay costs is proportionately not large. For  
7 example, Plaintiffs' Exhibit 56 shows the ratio of state revenue for debt service compared to total  
8 expenditures for debt service by district level. The state share of the total debt service for  
9 building construction ranges, for fiscal year 2002, from about 6.7 to 9.8 percent. The cost of  
10 constructing and maintaining school facilities remain primarily a local burden, funded primarily  
11 through local property taxes. (Pls.'s Ex. 56.)

12 160. In sum, evidence of the State's failure to adequately fund its share of  
13 the elementary and secondary school system in Montana is evidenced by the following:

14 A. The growing number of school districts budgeting at or near their  
15 maximum budget authority. (Picus Test.)

16 B. The increasing number of schools with accreditation problems.

17 C. The difficulty in attracting and retaining teachers, which is based, to  
18 a large degree, on the decreasing salaries and benefits that are offered to Montana teachers  
19 compared to their counterparts in the United States.

20 D. The large number of programs that have been cut in recent years as  
21 evidenced by the testimony of numerous superintendents.

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22 E. The increasing difficulties that schools are having constructing safe  
23 and adequate buildings or maintaining the code compliance of the buildings that currently exist.

24 F. The increasing competition for general fund dollars between special  
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1 education and regular education, which lowers the available money to students in regular  
2 education programs.

3 G. The results of the A&M study.

4 H. The testimony of various superintendents that, if they were forced  
5 to provide their educational programs at the BASE general fund amount, they could not meet  
6 accreditation standards or offer a quality educational program.

7 I. The declining share of the State's contribution to the general fund  
8 budget of Montana's school districts.

9 J. The fact that Montana's funding formula is not reasonably related to  
10 the costs of providing a basic system of quality public elementary and secondary schools. Further,  
11 it is clear that the current funding system was not based on a study of the funding necessary to  
12 meet what the state and federal governments expect of Montana's schools.

13 K. The fact that the Montana Supreme Court has stated that it is the  
14 State's obligation to adequately fund its share of the school financing formula. *Helena*  
15 *Elementary I*, 236 Mont. at 55, 769 P.2d at 690.

16 L. The fact that the Montana Supreme Court noted that A[i]n 1972,  
17 when our Constitutional Convention met, approximately 65% of General Fund revenues were  
18 funded through the Foundation Program. The transcript of the debate on Art. X, ' 1(3), Mont.  
19 Const. clearly expresses the delegates= concern with the level of funding.@ *Helena Elementary I*,  
20 236 Mont. at 48, 769 P.2d at 690.

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1                   171. Plaintiffs suggest two other areas of inequity. First, Plaintiffs suggest that  
2 the burdens of paying for the construction of school facilities still fall primarily on local  
3 taxpayers, which is true. According to Plaintiffs, since local taxpayers must pay virtually the  
4 entire cost of constructing buildings, the poor districts are unable to construct badly needed  
5 facilities. (*See e.g., Quinlan Test.*) Further, Plaintiffs suggest that the competition between the  
6 special education funds and general education funds for non-special education students creates  
7 equity issues.

8                   172. Plaintiffs' factual assertions are correct in regard to construction and special  
9 education. However, the Court disagrees with Plaintiffs' categorization of these matters as issues  
10 of equity. Rather, the Court treats these two issues as further evidence of inadequacy rather than  
11 inequity.

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192. In this regard, it is important to further recognize and find that the State=s constitutional obligations are not limited to general fund budgets. Rather, the cost of the basic system includes all costs, whether funded through the general fund or other funds, including such significant funds as capital outlay/debt service, retirement and transportation. When these additional costs are considered, the State is funding an even smaller percentage of the total costs of the basic system.